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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,620	08/19/2003	Markus Donges	600.1278	4962
23280	7590	09/07/2005		
DAVIDSON, DAVIDSON & KAPPEL, LLC 485 SEVENTH AVENUE, 14TH FLOOR NEW YORK, NY 10018			EXAMINER MORRISON, THOMAS A	
			ART UNIT 3653	PAPER NUMBER
DATE MAILED: 09/07/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	10/643,620		DONGES ET AL.	
	Examiner		Art Unit	
	Thomas A. Morrison		3653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claims 5 and 7 are objected to because of the following informalities: (1) "machine" in line 1 of claim 5 should be -- delivery device --; (2) "printing substrates protrude" in line 3 of claim 7 should be -- the printing substrate protrudes --.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, it is unclear what is meant by the recited "controlling at least one controlling device for opening or closing the opening via a control device..." In particular, the recited controlling at least one controlling device appears to be mis-descriptive. Rather, it appears that at least one closing device is controlled by a control device.

Claim 4 recites the limitation "the closing device" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 3, 5-6 and 8-16, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,006,670 (Bantlin et al.). In particular, the Bantlin et al. patent discloses all of the limitations of claims 1, 3, 5-6 and 8-16.

Regarding claim 1, the Bantlin et al. patent discloses a method for operating a machine that processes printing substrates in sheet form (see Abstract), the method including

conveying substrate sheets from an inside (11.1) of a delivery device (1) through at least one opening (5) to an externally accessible region (11.2)(see also column 5, lines 29-38);

controlling at least one controlling device (including 7.1 and 7.2) for opening or closing the opening (5) via a control device (17) operatively connected to a drive (15.1) of the delivery device (1)(see also Fig. 4); and

closing the opening (5) or maintaining the opening (5) in a closed position when no substrate sheet is conveyed through the opening (5)(see also column 8, lines 29-38 and column 2, lines 39-49).

Regarding claim 3, Fig. 4 and column 8, lines 19-23 disclose opening the opening (5) using the control device (17) maintaining the opening (5) in an open position when a printing substrate protrudes through the opening (5). In particular, the opening (5) is maintained in an open state while the pile (6) is shifted through the opening (5) and up until the pile reaches a buffer zone 12.

Regarding claim 5, column 8, lines 29-38 disclose that after the drive (15.1) of the machine has come to a stop, the opening (5) is in an open position. In particular, the drive (15.1) moves the pile (6) from conveyer subsection (11.1) to a second conveyer subsection (11.2) where the pile is stopped. Column 8, lines 29-38 explain that the opening (5) is in an open position when the pile (6) occupies a buffer zone (12) of the second conveyer subsection (11.2). As such, the limitations of claim 5 are met.

Regarding claim 6, column 2, lines 45-49 disclose that the opening (5) is in the closed position before the drive (15.1) is put into operation and when no substrate sheets protrude through the opening (5) to the outside.

Regarding claim 8, the Abstract discloses that the machine is a printing press.

Regarding claim 9, discloses a device for a machine that processes printing substrates (Abstract) in sheet form including

a delivery device (1) including a drive (15.1) for conveying substrate sheets and having at least one opening (5), the substrate sheets capable of being conveyed from an inside (11.1) of the delivery device (1) through the at least one opening (5) to an

externally accessible region (11.2), the delivery device (1) including at least one closing device (including 7.1 and 7.2) for opening or closing the opening (5); and

a control device (17) for controlling the closing device (including 7.1 and 7.2) and being operatively connected to the drive (15.1), the control device (17) closing the opening or maintaining the opening (5) in a closed position when no substrate sheet is conveyed through the opening (5). See Figs. 1 and 4, and column 2, lines 39-49.

Regarding claim 10, Fig. 4 and column 8, lines 24-29 disclose sensors or contacts (21) at the closing device (including 7.1 and 7.2) to detect a state of the closing device (including 7.1 and 7.2).

Regarding claim 11, column 8, lines 10-16 disclose sensors or contacts (24, 25) for detecting substrate sheets present in a region of the closing device.

Regarding claim 12, Figs. 1 and 4 show that the closing device (including 7.1 and 7.2) includes at least one movable closing element (7.1) controllable by the control device (17).

Regarding claim 13, Fig. 1 shows that the closing device (including 7.1 and 7.2) includes three movable closing elements controllable by the control device (17). In particular, a roll shutter (7.1) is shown which is made up of a plurality of sections (movable closing elements) and such roll shutter is controlled by the control device (17). Thus, the limitations of claim 13 are met.

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Regarding claim 14, Fig. 1 and column 6, lines 54-65 disclose that the movable closing element is a roller shutter.

Regarding claim 15, the Abstract discloses that the machine is a printing press.

Regarding claim 16, the Bantlin et al. patent discloses a printing press (Abstract) including

a delivery device (1) including a drive (15.1) for conveying substrate sheets and having at least one opening (5), the substrate sheets capable of being conveyed from an inside (11.1) of the delivery device (1) through the at least one opening (5) to an externally accessible region (11.2), the delivery device (1) including at least one closing device (including 7.1 and 7.2) for opening or closing the opening (5);

a control device (17) for controlling the closing device (including 7.1 and 7.2) and being operatively connected to the drive (15.1), the control device (17) closing the opening (5) or maintaining the opening (5) in a closed position when no substrate sheet is conveyed through the opening (5). See also Figs. 1 and 4, and column 2, lines 39-49.

Response to Amendment

4. Applicant's arguments with respect to claims 1, 9 and 16 have been considered but are moot in view of the new ground(s) of rejection.

The prior art rejections of the other dependent claims 2-8 and 10-15 are outlined above.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas A. Morrison whose telephone number is (571) 272-7221. The examiner can normally be reached on M-F, 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald Walsh can be reached on (571) 272-6944. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.


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Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).


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